

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 04-221 (1) (RHK/RLE)

Plaintiff,

ORDER

v.

David Lee Anderson,

Defendant.

Before the Court are Defendant's Motions for recalculating his criminal history (Doc. No. 106) and for resentencing (Doc. No. 107); the Motions seek application of Amendment 709 and the recalculation of his criminal history.

Because Defendant was sentenced as an armed career criminal pursuant to 18 U.S.C. § 924(e), he is not entitled to any relief under Guidelines Amendment 709.

Accordingly, and upon all the files, records and proceedings herein, **IT IS ORDERED** that (a) the pro se Motion Pursuant to 18 U.S.C. § 3582(c)(2) to Recalculate the Petitioner's Criminal History Based on Amendment 709 of the USSG (Doc. No. 106) and (b) the pro se Motion for Resentencing (Doc. No. 107) are both **DENIED**.

Dated: June 2, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge